

107TH CONGRESS
1ST SESSION

H. R. 1923

To amend the Internal Revenue Code of 1986 to provide for Start-up Success
Accounts.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2001

Mr. DEMINT (for himself and Mr. BAIRD) introduced the following bill; which
was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide
for Start-up Success Accounts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Start-Up Success Ac-
5 counts Act of 2001”.

6 **SEC. 2. START-UP SUCCESS ACCOUNTS.**

7 (a) IN GENERAL.—Subpart C of part II of sub-
8 chapter E of chapter 1 of the Internal Revenue Code of
9 1986 (relating to taxable year for which deductions taken)

1 is amended by inserting after section 468B the following
2 new section:

3 **“SEC. 468C. START-UP SUCCESS ACCOUNTS.**

4 “(a) DEDUCTION ALLOWED.—In the case of a tax-
5 payer which is an eligible small business, there shall be
6 allowed as a deduction for any taxable year the amount
7 paid in cash by such taxpayer to a Start-up Success Ac-
8 count (hereafter in this section also referred to as an
9 ‘SUSA Account’).

10 “(b) LIMITATION.—

11 “(1) IN GENERAL.—The amount which a tax-
12 payer may pay into the SUSA Account for any tax-
13 able year shall not exceed whichever of the following
14 is the least:

15 “(A) 20 percent of so much of the taxable
16 income of the taxpayer (determined without re-
17 gard to this section) which is attributable to
18 any trade or business.

19 “(B) \$50,000.

20 “(C) \$100,000, reduced by the aggregate
21 amount paid by the taxpayer (and all related
22 persons) into SUSA accounts for all prior tax-
23 able years.

24 “(2) DEDUCTION ALLOWED ONLY DURING
25 STARTUP PERIOD.—No deduction shall be allowed

1 under this section with respect to any eligible small
2 business for any taxable year after the 5th taxable
3 year that such business (or any predecessor) is en-
4 gaged in a trade or business.

5 “(3) DOLLAR LIMITATION ON CONTROLLED
6 GROUPS.—

7 “(A) IN GENERAL.—For purposes of para-
8 graph (1)—

9 “(i) all component members of a con-
10 trolled group shall be treated as one tax-
11 payer, and

12 “(ii) the Secretary shall apportion the
13 dollar limitations contained in paragraph
14 (1) among the component members of such
15 controlled group in such manner as he
16 shall by regulations prescribe.

17 “(B) CONTROLLED GROUP DEFINED.—For
18 purposes of subparagraph (A), the term ‘con-
19 trolled group’ has the meaning given such term
20 by section 1563(a); except that, for such pur-
21 poses, ‘more than 50 percent’ shall be sub-
22 stituted for ‘at least 80 percent’ each place it
23 appears in section 1563(a)(1).

24 “(4) PARTNERSHIPS AND S CORPORATIONS.—In
25 the case of a partnership, the limitation under para-

graph (1) shall apply with respect to the partnership and each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

“(5) RELATED PERSONS.—For purposes of paragraph (1)(C), a person (hereinafter in this paragraph referred to as the ‘related person’) is related to any person if the related person bears a relationship to such person specified in section 267(b) or 707(b)(1), or the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52. For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), ‘10 percent’ shall be substituted for ‘50 percent’.

“(c) ELIGIBLE SMALL BUSINESS.—

“(1) IN GENERAL.—For purposes of this section, the term ‘eligible small business’ means, with respect to any taxable year, any person actively engaged in a trade or business if for all prior taxable years beginning after December 31, 1999, the taxpayer (or any predecessor) met the \$2,000,000 gross receipts test of paragraph (2). In the case of a taxpayer to which section 469 applies, such term shall not include any trade or business which is a passive

1 activity (within the meaning of section 469(c)) of the
2 taxpayer.

3 “(2) \$2,000,000 GROSS RECEIPTS TESTS.—A
4 person meets the \$2,000,000 gross receipts tests of
5 this paragraph for any prior taxable year if such
6 person would meet the test of section 448(c) were
7 such section applied by substituting ‘\$2,000,000’ for
8 ‘\$5,000,000’.

9 “(d) START-UP SUCCESS ACCOUNT.—For purposes
10 of this section—

11 “(1) IN GENERAL.—The terms ‘Start-up Suc-
12 cess Account’ and ‘SUSA Account’ means a trust
13 created or organized in the United States for the ex-
14 clusive benefit of an eligible small business, but only
15 if the written governing instrument creating the
16 trust meets the following requirements:

17 “(A) No contribution will be accepted for
18 any taxable year in excess of the amount al-
19 lowed as a deduction under subsection (a) for
20 such year.

21 “(B) The trustee is a bank (as defined in
22 section 408(n)) or another person who dem-
23 onstrates to the satisfaction of the Secretary
24 that the manner in which such person will ad-

1 minister the trust will be consistent with the re-
2 quirements of this section.

3 “(C) The assets of the trust consist en-
4 tirely of cash or of obligations which have ade-
5 quate stated interest (as defined in section
6 1274(c)(2)) and which pay such interest not
7 less often than annually.

8 “(D) All income of the trust is distributed
9 currently to the grantor.

10 “(E) The assets of the trust will not be
11 commingled with other property except in a
12 common trust fund or common investment
13 fund.

14 “(2) ACCOUNT TAXED AS GRANTOR TRUST.—
15 The grantor of an SUSA Account shall be treated
16 for purposes of this title as the owner of such Ac-
17 count and shall be subject to tax thereon in accord-
18 ance with subpart E of part I of subchapter J of
19 this chapter (relating to grantors and others treated
20 as substantial owners).

21 “(e) INCLUSION OF AMOUNTS DISTRIBUTED.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (2), there shall be includible in the gross in-
24 come of the taxpayer for any taxable year—

1 “(A) any amount distributed from an
 2 SUSA Account of the taxpayer during such tax-
 3 able year (to the extent not previously included
 4 in gross income), and

5 “(B) any deemed distribution under—

6 “(i) subsection (f)(1) (relating to de-
 7 posits not distributed within 5 years),

8 “(ii) subsection (f)(2) (relating to ces-
 9 sation in trade or business), and

10 “(iii) subparagraph (A) or (B) of sub-
 11 section (f)(3) (relating to prohibited trans-
 12 actions and pledging account as security).

13 “(2) EXCEPTIONS.—Gross income shall not in-
 14 clude the distribution of any contribution paid dur-
 15 ing a taxable year to an SUSA Account to the ex-
 16 tent that such contribution exceeds the limitation
 17 applicable under subsection (b) if requirements simi-
 18 lar to the requirements of section 408(d)(4) are met.

19 “(3) EXCLUSION FROM SELF-EMPLOYMENT
 20 TAX.—Amounts included in gross income under this
 21 subsection shall not be included in determining net
 22 earnings from self-employment under section 1402.

23 “(f) SPECIAL RULES.—

24 “(1) TAX ON DEPOSITS IN ACCOUNT WHICH
 25 ARE NOT DISTRIBUTED WITHIN 5 YEARS.—

“(A) IN GENERAL.—If, at the close of any taxable year, there is a nonqualified balance in any SUSA Account—

“(i) there shall be deemed distributed from such Account during such taxable year an amount equal to such balance, and

“(ii) the taxpayer’s tax imposed by this chapter for such taxable year shall be increased by 10 percent of such deemed distribution.

The preceding sentence shall not apply if an amount equal to such nonqualified balance is distributed from such Account to the taxpayer before the due date (including extensions) for filing the return of tax imposed by this chapter for such year (or, if earlier, the date the taxpayer files such return for such year).

“(B) NONQUALIFIED BALANCE.—For purposes of subparagraph (A), the term ‘nonqualified balance’ means any balance in the Account on the last day of the taxable year which is attributable to amounts deposited in such Account before the 4th preceding taxable year.

“(C) ORDERING RULE.—For purposes of this paragraph, distributions from an SUSA

1 Account shall be treated as made from deposits
2 in the order in which such deposits were made,
3 beginning with the earliest deposits.

4 “(2) CESSATION IN TRADE OR BUSINESS.—At
5 the close of the first disqualification period after a
6 period for which the taxpayer was engaged in the
7 trade or business referred to in subsection (a), there
8 shall be deemed distributed from the SUSA Account
9 (if any) of the taxpayer an amount equal to the bal-
10 ance in such Account at the close of such disquali-
11 fication period. For purposes of the preceding sen-
12 tence, the term ‘disqualification period’ means any
13 period of 2 consecutive taxable years for which the
14 taxpayer is not engaged in the trade or business re-
15 ferred to in subsection (a).

16 “(3) CERTAIN RULES TO APPLY.—Rules similar
17 to the following rules shall apply for purposes of this
18 section:

19 “(A) Section 408(e)(2) (relating to loss of
20 exemption of account where individual engages
21 in prohibited transaction).

22 “(B) Section 408(e)(4) (relating to effect
23 of pledging account as security).

24 “(C) Section 408(g) (relating to commu-
25 nity property laws).

1 “(D) Section 408(h) (relating to custodial
2 accounts).

3 “(4) TIME WHEN PAYMENTS DEEMED MADE.—

4 For purposes of this section, a taxpayer shall be
5 deemed to have made a payment to an SUSAs Account
6 on the last day of a taxable year if such pay-
7 ment is made on account of such taxable year and
8 is made within 3½ months after the close of such
9 taxable year.

10 “(g) REPORTS.—The trustee of an SUSAs Account
11 shall make such reports regarding such Account to the
12 Secretary and to the person for whose benefit the Account
13 is maintained with respect to contributions, distributions,
14 and such other matters as the Secretary may require
15 under regulations. The reports required by this subsection
16 shall be filed at such time and in such manner and fur-
17 nished to such persons at such time and in such manner
18 as may be required by those regulations.”.

19 (b) TAX ON EXCESS CONTRIBUTIONS.—

20 (1) Subsection (a) of section 4973 of such Code
21 (relating to tax on certain excess contributions) is
22 amended by striking “or” at the end of paragraph
23 (3), by redesignating paragraph (4) as paragraph
24 (5), and by inserting after paragraph (3) the fol-
25 lowing new paragraph:

1 “(4) an SUSA Account (within the meaning of
2 section 468C(d)), or”.

3 (2) Section 4973 of such Code is amended by
4 adding at the end the following new subsection:

5 “(g) EXCESS CONTRIBUTIONS TO SUSA AC-
6 COUNTS.—For purposes of this section, in the case of
7 SUSA Accounts (within the meaning of section 468C(d)),
8 the term ‘excess contributions’ means the amount by
9 which the amount contributed for the taxable year to the
10 Account exceeds the amount which may be contributed to
11 the Account under section 468C(b) for such taxable year.
12 For purposes of this subsection, any contribution which
13 is distributed out of the SUSA Account in a distribution
14 to which section 468C(e)(2)(B) applies shall be treated as
15 an amount not contributed.”.

16 (c) TAX ON PROHIBITED TRANSACTIONS.—

17 (1) Subsection (c) of section 4975 of such Code
18 (relating to prohibited transactions) is amended by
19 adding at the end the following new paragraph:

20 “(6) SPECIAL RULE FOR SUSA ACCOUNTS.—A
21 person for whose benefit an SUSA Account (within
22 the meaning of section 468C(d)) is established shall
23 be exempt from the tax imposed by this section with
24 respect to any transaction concerning such Account
25 (which would otherwise be taxable under this sec-

1 tion) if, with respect to such transaction, the ac-
 2 count ceases to be an SUSA Account by reason of
 3 the application of section 468C(f)(3)(A) to such Ac-
 4 count.”.

5 (2) Paragraph (1) of section 4975(e) of such
 6 Code is amended by redesignating subparagraphs
 7 (E) and (F) as subparagraphs (F) and (G), respec-
 8 tively, and by inserting after subparagraph (D) the
 9 following new subparagraph:

10 “(E) an SUSA Account described in sec-
 11 tion 468C(d),”.

12 (d) FAILURE TO PROVIDE REPORTS ON SUSA AC-
 13 COUNTS.—Paragraph (2) of section 6693(a) of such Code
 14 (relating to failure to provide reports on certain tax-fa-
 15 vored accounts or annuities) is amended by redesignating
 16 subparagraphs (C) and (D) as subparagraphs (D) and
 17 (E), respectively, and by inserting after subparagraph (B)
 18 the following new subparagraph:

19 “(C) section 468C(g) (relating to SUSA
 20 Accounts),”.

21 (e) CLERICAL AMENDMENT.—The table of sections
 22 for subpart C of part II of subchapter E of chapter 1 of
 23 such Code is amended by inserting after the item relating
 24 to section 468B the following new item:

“Sec. 468C. Start-up Success Accounts.”.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

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